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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,382	08/05/2003	Joel R. Warner	WJRA-10002/01	8157

25006 7590 03/23/2004

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/634,382	<b>Applicant(s)</b> WARNER, JOEL R.	
	<b>Examiner</b> Son T. Nguyen	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

*Son T. Nguyen*  
*Per Exm 3643*

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/20/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "10" has been used to designate both sheet and blanket. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

2. Claims 14,17,19 & 20 are objected to because of the following informalities: claims 14 & 20 are duplicate claims. Claims 17 & 19 claim a method claim but depend on an apparatus claim. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-5,8-11** are rejected under 35 U.S.C. 102(b) as being anticipated by GB 2311923 (herein 923).

For claim 1, 923 discloses a method for covering vegetation comprising the steps of providing an area of earth having vegetation disposed therein; providing a cover including a sheet of material 2 having a perimeter edge being folded to form piping (see

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fig. 6) and a weight 55,60 disposed within the piping; and positioning the cover over the vegetation.

For claim 2, 923 discloses the vegetation is from crops.

For claim 3, 923 discloses the sheet being a textile material (page 3, lines 15-17).

For claim 4, 923 discloses the sheet being a synthetic material (page 3, lines 15-17).

For claim 5, 923 discloses the synthetic material being a polymeric material such as polythene (page 3, line 16).

For claim 8, 923 discloses the piping is staggered around the parameter edge of the sheet on each side as shown in fig. 1.

For claims 9 & 11, 923 discloses the weight being a flexible weight (page 4, lines 25-2).

For claim 10, 923 discloses the flexible weight being a fluid (such as water).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 6,13,15-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over 923 (as above).

For claim 6, on page 2, lines 1-5 of 923, 923 discuss that the fleece material being permeable to rainfall, thus, indicating that the material has perforations. However,

it is uncertain if those perforations are micro or not. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the perforations of the material of 923 be micro in size, depending on how much water or rainfall one wishes to seep through the cover.

For claim 13, 923 discloses a cover for vegetation comprising a sheet of material 2 having a perimeter edge being folded to form piping (see fig. 6) and a weight 55,60 disposed within the piping. In addition, on page 2, lines 1-5 of 923, 923 discuss that the fleece material being permeable to rainfall, thus, indicating that the material has perforations. However, it is uncertain if those perforations are micro or not. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the perforations of the material of 923 be micro in size, depending on how much water or rainfall one wishes to seep through the cover.

For claim 15, in addition to the above, 923 discloses the piping is staggered around the parameter edge of the sheet on each side as shown in fig. 1.

For claims 16 & 18, in addition to the above, 923 discloses the weight being a flexible weight (page 4, lines 25-2).

For claim 17, in addition to the above, 923 discloses the flexible weight being a fluid (such as water).

7. **Claims 7,14 & 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over 923 (as above) in view of US 5058317 (herein 317).

For claim 7, 317 teaches a mulch collar comprising a sheet of material to cover plants, the material being colored black (col. 5, lines 49-52) for sunlight absorption and

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warming the plants. It would have been obvious to one having ordinary skill in the art at the time the invention was made to color the sheet in the method of 923 black as taught by 317 in order to absorb sunlight and thus, warm the plants.

For claims 14 & 20, 317 teaches a mulch collar comprising a sheet of material to cover plants, the material being colored black (col. 5, lines 49-52) for sunlight absorption and warming the plants. It would have been obvious to one having ordinary skill in the art at the time the invention was made to color the sheet of 923 black as taught by 317 in order to absorb sunlight and thus, warm the plants.

8. **Claims 12,19** are rejected under 35 U.S.C. 103(a) as being unpatentable over 923 (as above) in view of JP 355093751A (herein 751). 751 teaches an outdoor cover comprising a sheet of material 1 having piping (see fig. 3) that extend into an interior area of the sheet (see fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to extend the piping of 923 into the interior area of the sheet as taught by 751 in order to further prevent the sheet from blowing off by wind.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is (703) 305-0765. The examiner can normally be reached on Monday - Friday from 9:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574. Any inquiry of a general nature or relating to the status of this application or proceeding should be

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directed to Customer Service at (703) 872-9325. The official fax number is 703-872-9306.



Son T. Nguyen  
Primary Examiner, GAU 3643  
March 18, 2004